



MEMO ENDORSED

Celia Goldwag Barenholtz
+1 212 479 6330
cbarenholtz@cooley.com

September 18, 2015

Via ECF

Honorable Naomi Reice Buchwald
United States District Court
for the Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

RE: Retrophin, Inc. v. Shkreli, 15-CV-06451 (NRB)

Dear Judge Buchwald:

We represent Retrophin and write in response to the defendant's pre-motion conference letter dated September 16, 2015.

As set forth in my letter to your Honor dated August 28, 2015, a copy of which is attached, Retrophin believes that a single arbitration is the most efficient way for the parties to proceed now that the defendant has decided to commence an arbitration based on his employment agreement. Accordingly, Retrophin does not oppose the defendant's application for a stay of this action pending his challenge to the arbitrability of Retrophin's claims. *750 Ordered*

The defendant's pre-motion conference letter also asserts that he has a motion to dismiss under Rule 9(b) and "other grounds" for seeking a stay should the arbitrator decide that some of the claims asserted in this action cannot be arbitrated, and seeks another 30 days to respond to the Complaint should the arbitrator grant his application. Retrophin objects to that request.

Even assuming that Rule 9(b) applies to this case, Retrophin's 47-page Complaint is not lacking in particularity. Moreover, if the arbitrator agrees with the defendant that some of the claims asserted in the Complaint cannot be arbitrated, then this action – which was filed before the defendant's arbitration demand – will have been delayed for a considerable period of time. Accordingly, Retrophin asks that the defendant be required to file a pre-motion letter explaining the basis for his proposed motion within *ten (10)* *three* days after a ruling in his favor by the arbitrator so this action can proceed expeditiously. If the arbitrator rules against the defendant on the issue of arbitrability, Retrophin will voluntarily dismiss this action.

Respectfully yours,

Celia Goldwag Barenholtz
Celia Goldwag Barenholtz

cc: Wendy Huang Waszmer, Esq.
Richard T. Marooney, Jr., Esq.
Elissa Preheim, Esq.

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to be ordered as modified.
Naomi Reice Buchwald
9/21/15